IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 20TH SEPTEMBER 2006 / 29TH BHADRA 1928

OP.No. 17207 of 2001(W)

PETITIONER:

SREE ANNAPOORNESWARI POOJA,
CO- ORDINATORS TRUST, PUDUCODE,
PALAKKAD REP.BY ITS SECRETARY,
P.V.GOPALAKRISHNAN.

BY ADV. SRI.H.SIVARAMAN

RESPONDENTS:
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1. **THE TAHSILDAR, ALATHUR.**

2. **THE VILLAGE OFFICER,**
PUDUCODE VILLAGE, PALAKKAD.

3. **THE REVENUE DIVISIONAL OFFICER,**
PALAKKAD.

4. **THE DISTRICT COLLECTOR,**
CIVIL STATION, PALAKKAD.

5. **THE STATE OF KERALA REP.BY**
THE CHIEF SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.GEORGE KUTTY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/09/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.27507/2001 IN OP. NO.17207/2001

DISMISSED

20.9.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P2:- COPY OF THE ORDER DT.5.12.2000 ISSUED BY THE TAHSILDAR, ALATHUR.

EXT.P2:- COPY OF THE RECEIPT DT.23.12.2000 ISSUED BY THE TAHSILDAR, ALATHUR.

EXT.P2(a):- COPY OF THE RECEIPT DT.7.3.01 ISSUED BY THE TAHSILDAR, ALATHUR.

.EXT.P3:- COPY OF THE DEMAND NOTICE DT.16.8.01 ISSUED BY TAHSILDAR, ALATHUR.

EXT.P4:- COPY OF THE GIFT DEED DOCUMENT NO.4087/1987.

.EXT.P5:- COPY OF THE LETTER SENT BY THE BHARATIYA VIDYA BHAVAN TO THE PETITIONER DT.2.10.2000.

E.XT.P6:- COPY OF THE LETTER SENT BY AKHILA BHARATHA AYYAPPA SEVA SANGAM DT.4.12.2000 TO THE PETITIONER.

.EXT.P7:- COPY OF THE 3RD RESPONDENT'S ORDER K.DIS. 479/2001/C DT.23.3.01 OF THE 3RD RESPONDENT.

EXT.P8:- COPY OF THE ORDER NO.REF. B1-13744/2001 DT.20.4.01 OF THE 4TH RESPONDENT.

/TRUE COPY/

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C.N.RAMACHANDRAN NAIR, J.

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O.P. No.17207 of 2001

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Dated this the 20th day of September, 2006.

JUDGMENT

Heard counsel for the petitioner and the Government Pleader. The prayer in the O.P. is for direction to the Tahsildar to refer the claim for exemption from building tax to the Government for decision under Section 3(2) of the Building Tax Act. I do not think any question remains to be decided by the Government because the position is settled by various decisions of this court. It has been held in large number of decisions that application of rental income for charitable purpose will not entitle the building for exemption. The basic condition for granting exemption is principal use of the building for charitable purpose. It is stated by the appellate authority and the Collector in Exts.P7 and P8 orders that the building is a kalyanamandapam let out on rent. However, petitioner has denied the same before this court. It is not very clear from these orders as to the basis on which the authorities have come to the conclusion that the building is a kalyanamandapam let out on rent. Therefore, I direct the Tahsildar to conduct enquiry regarding nature of use of the building and if it is found that the building is let out, to confirm the demand even if the rent is used for charitable purpose of the trust. However, if the building is given to the beneficiaries of the trust free of rent, then the Tahsildar is directed to grant exemption and to refund the tax collected. The petitioner will produce copy of this judgment before the Tahsildar for

compliance. The Tahsildar will complete enquiry and issue final orders which will substitute earlier assessment confirmed in appeal and revision, within a period of three months from the date of production of copy of this judgment.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms